IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Criminal Application No.1254 of 2006

State of Maharashtra Applicant

Vs.

Nagendra@ Nagesh Gundappa
Garuda & ors. Respondents

Mrs.U.V.Kejriwal, APP for State.

CORAM: B.H.MARLAPALLE & R.S. MOHITE, JJ.

February 13, 2007.

P.C.

. Heard Mrs.Kejriwal, the learned APP. The State prays for leave to appeal under Section 378(3) of the Cr.P.C. so as to challenge the order of acquittal passed by the learned I Ad-hoc Asst. Sessions Judge, Alibaug for the offences punishable under Section 394 read with Section 34 and the offence punishable under Section 397 of IPC.

. As per the prosecution one Sanjay Shantaram Naik and Ravindra Satav along with driver Balaji Suryavanshi were in Sumo jeep and proceeding towards the State Bank of India to encash a cheque for Rs.2 lakhs. They were the employees of Parle

International Pvt. Ltd., Vanivali and on the date of incident i.e. 7/7/2004 electric supply was not available and, therefore, the Bank working was stopped for some time. Consequently the trio were returning in the same jeep bearing MH-6/W-2869 and they were intercepted by a Maruti car bearing No. MH-06/F-6004. Three persons from the said car stepped down with weapons like knife and demanded the key of Sumo vehicle. When the driver refused to part with the keys, he was assaulted and the assailants forcibly took the cheque of Rs.2 lakhs and disappeared. It was further claimed that subsequently they abandoned the Maruti car and went in the Contessa car which was waiting at some distance. This Contessa car was subsequently seized.

. The learned Judge of the trial Court on appreciation of evidence held that there was no evidence to prove that the accused had committed robbery and looted informant Sanjay Naik and others. We have gone through the reasoning set out by the trial Court on sifting the evidence of PW 1 Ravindra Satav, PW 2 Sanjay Naik (complainant) and PW 8 Balaji Suryavanshi as well as the chance witness Arun Shantaram Gaikwad. We do not find any reason

warranting reconsideration of the view taken by the trial Court in acquitting the accused and, therefore, this is not a fit case to grant leave to appeal.

. Hence, the application is hereby rejected.

(R.S.MOHITE,J.) (B.H.MARLAPALLE,J.)